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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 97-040

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. When drafting a prohibition in the form “no person may . . .”, when the prohibition applies under several different circumstances that may be mutually exclusive, the conjunctive “or” should be used rather than “and.” For example, in s. NR 45.06 (6) (a), the word “and” should be replaced by the word “or,” since no person will simultaneously be on the northern state forests *and* the Turtle Flambeau scenic waters area. Other examples of this error are found in both new and existing text elsewhere in ch. NR 45, e.g., s. NR 45.10 (1) (a) and (k). Note that “and” is the correct conjunctive to use in permissive language, such as s. NR 45.05 (3) (e).

b. In the treatment clause to SECTION 11, “NR 45.10 (3) (a)” should be inserted before “3.” in place of “to.” This type of change should be made in SECTION 21 also.

c. It appears that the rule is replacing the term “bathing beach” with “swimming beach.” If this is the case, the department missed one occurrence of the term “bathing beach,” found in s. NR 45.11 (1).

d. Section NR 45.12 (1) (b) 6. d., e. and n. should be repealed and recreated since no existing text remains.

e. SECTION 15 of the rule-making order should be broken into two SECTIONS and the creation of s. NR 45.12 (1) (d) 49. should be placed after SECTION 16, to treat the units of ch. NR 45 in sequential order.

f. In s. NR 45.13 (14) (b), “any of” should be inserted after “possess.” A period should replace “, or” in sub. (1).

g. In s. NR 45.13 (17) (b) 4., the old reference to s. NR 45.13 (18) (b) 2. should be replaced by a reference to par. (c), since this is now an internal cross-reference.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 45.10 (1) (L) expresses camping time restrictions in terms of nights in some circumstances and days in other circumstances. It would seem clearer to express all restrictions in the same manner. In addition, it appears that the word “up” should be inserted before the words “to 10 days.”

b. Are s. NR 45.12 (1) (b) and (d) mutually exclusive? Does it make sense to have the same area listed under both, as is created in SECTION 15 of the rule?

c. The entry “Governor Knowles” in s. NR 45.12 (2) (a) 2. s. appears to be incomplete. Should the reference be to Governor Knowles state forest? To the St. Croix campground of Governor Knowles state forest?

d. Section NR 45.13 (14) (b) prohibits the possession of certain containers in watercraft on the Brule River which were launched from the Brule River state forest. This prohibition appears to be unenforceable. How will a law enforcement officer know whether a boat on the river was launched from the state forest or from another location?